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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/047,860

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John R. Hind

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,860

Applicant(s)

HIND ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/30/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9,10,13,14,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 3, 8, 11-12, 15, and 18-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 3-May-2006, PROSECUTION IS HEREBY REOPENED. *A new ground of rejection is set forth below.*

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Status of the claims, claims 1-19 are pending.

Claim Objections

3. Claims 1, 12, 13, and 17 are objected to because of the following informalities:

Claims 1, and 13, recite "**for**" (i.e. *for* invoking.... *For* providing... *for* causing) constitute intended use of the claimed invention. Claims must result in a structural difference between the claimed invention and the prior art in order to be patentable, therefore, recitation following the "**for**" carry no patentable weight. Claims should be amended to recite more direct positive language such as "to", "that", "of", "which", or "invoking".

Claim 1, line 3, recite, “can be” which is passive and suggest optionally never having to take place, and therefore which renders any recitation claimed after not be given patentable weight

Claim 12, line 2, needs “space” between the words “meta-data” and “for”.

Claim 17, line 2, needs “space” between the words “set” and “in”.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 6, and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 6 is not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application. The use of a computer has not been indicated.

The claim does not indicate use of hardware on which the software runs to perform the steps recited in the body of the claim. Software or program can be stored on a medium and/or executed by a computer. In other words the software must be computer-readable. Furthermore, there is no hardware or storage tied to the claimed steps in order to realize their functionality.

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Claim 6 although reciting “a database access method” in the preamble without reciting how is the method preformed? If by using an automated device (i.e. computer or in a database) then it should be stated in the body of the claim. “Database connectivity request” and “interfaces” are not defined to be a concrete or tangible tied or stored in hardware. The claim should be amended to recite computer/hardware and tangible output tied to the claimed limitations in order to realize their functionality. Similarly, claim 13 has the same deficiency.

5. Claim 13 preamble recite “program *for* ...instructions *for*” the limitations following the phrase “*for*” describes only intended use but not necessarily required functionality of the claim. Limitations following the phrase “*for*” do not carry patentable weight, which cause the claims to appear as a series of non-functional descriptive material/data without any functional relation with each other. Applicant is required to amend the claims so that the claim limitations are recited in a definite form.

In claim 13, “machine readable storage program for...”... “receiving”...”forwarding”... and “performing” do not have to functionally to be tied to together in a hardware/computer device. Instructions must be stored and executed by a computer or processor in order to realize their functionality. Claims must be amended to recite “program to provide database access, the computer program comprising a routine set of executable instructions to case the machine to perform the steps of:”.

Claim Rejections - 35 USC § 102

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2, 4-7, 9-10, 13-14, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by McHenry et al. (U.S. Pub. No. 2003/0115281 A1).

As to claim 1, McHenry et al. discloses a database access system comprising:

a universal database connectivity driver having a first exposed interface through which access to a database server can be provided (See Figure 1, and page 3, paragraph 0030);

a database proxy driver registered with said universal database connectivity driver, said database proxy driver having a second exposed interface which conforms with said first exposed interface of said universal database connectivity driver, said database proxy driver having a configuration for invoking at least one auxiliary task in addition to providing access to said database server through said first exposed interface of said universal database connectivity driver (See Figure 1, shows the network distribution, and see Figure 3, shows edge server caching and storing various database multi proxy agent); and

a database driven application programmatically linked to said database proxy driver (See page 4, paragraph 0040).

As to claim 2, McHenry et al. discloses wherein each of said universal database connectivity driver, database proxy driver and database driven application are disposed in an edge device in a computer communications network (See Figure 3, shows multi proxy stored as well as interfaces to network and to users in the edge device).

As to claims 4, 9 and 16, McHenry et al. discloses wherein said performing step comprises performing a database caching task (See Figure 2, 48/50, shows caching functionality, also see page 1, paragraph 0013).

As to claims 5, 10 and 17, McHenry et al. discloses further comprising:
collecting meta-data *for* each received database connectivity request (See Figure 2, 30, shows management and collection of metadata); and,
modifying operation of said auxiliary task based upon an analysis of said collected meta-data (See page 3, paragraph 0031).

As to claims 6, and 13, McHenry et al. discloses a machine readable storage medium stored thereon a computer program for providing database access, the computer program comprising a routine set of instructions for causing the machine to perform the steps of:

receiving a database connectivity request through a corresponding first exposed database connectivity method from a database driven application (See Figure 1, and page 3, paragraph 0030);

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forwarding said database connectivity request to an underlying database connectivity driver through a corresponding second exposed method having a method prototype which matches a method prototype of said first exposed database connectivity method (See Figure 1, shows the network distribution, and see Figure 3, shows edge server caching and storing various database multi proxy agent, also see page 1, paragraph 0013, and page 3, paragraph 0032); and,

performing at least one auxiliary task in addition to forwarding said database connectivity request (See page 3, paragraph 0030, and page 3, paragraph 0032).

As to claims 7 and 14, McHenry et al. discloses performing each of the receiving, forwarding and performing steps in an edge device (See Figure 3, shows multi proxy stored as well as interfaces to network and to users in the edge device).

Allowable Subject Matter

8. Claims 3, 8, 11-12, 15, and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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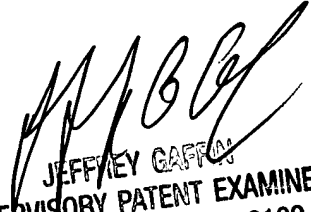
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-Form 892 for list of Cited References.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
August 3, 2006


JEFFREY GAFFIN
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